IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO.64 OF 2006

Mr.Parvindersingh Arora & another. ...Petitioners.

vs.

1.The Memon Co-op.Bank Ltd. &others. ...Respondents.

Mr.P.K.Dhakephalkar i/b. S.S.Redij, for Petitioners.

Mr.S.I.Menon, for Respondent no.1.

Mr.Dipesh Siroya i/b. L.J.Law, for Respondent no.7.

CORAM: D.K.DESHMUKH,J.

DATED: 25th June,2007.

P.C.:-

1. The facts that are material for deciding this contempt petition are that the respondent no.1 The Memon Co-operative Bank has started

proceedings for recovery of debts which according to the respondent no.1 are due to the petitioners. In those proceedings some property belonging to the petitioners were attached. When the matter was before the Appeal Court, the Appeal Court continued the order of attachment of those properties. While the order of attachment was in force, according to the petitioners, the respondent no.1 bank has taken possession of the property and sold the property. It is alleged in this petition that by selling the property which was attached by the Court, the respondent no.1 has committed willful breach of the order of attachment. The submission is not well founded because the order of attachment was made by the Court for the benefit of respondent no.1 and not for the benefit of the petitioner. They have not sold the property obviously because of the attachment. Their right to sell the property, even according to the respondent no.1, emerges from something other than the order of

attachment. The order of attachment will create a cloud on the right of the petitioners to sell the property and it will not adversely affect the right or entitlement of the bank to sell the property if it is otherwise entitled to do so. I do not see that there is any element of contempt involved in the action of the respondent no.1 bank. If according to the petitioners, the respondent no.1 bank was not entitled to take possession of the property and sell the property, they have to adopt the remedy that may be available to them under the law. The petition is disposed of.